

In re Application of:

Hay, et al.

Application No.: 09/270,983

Filed: March 17, 1999

Page 2

PATENT

Attorney Docket No.: CIT1130-1

- a! 3. (Amended) The fusion protein of claim 1, wherein said repressor polypeptide comprises a [nuclear export sequence] polypeptide sequence that directs the localization of said fusion protein outside of the nucleus of a cell.

REMARKS

Prior to this communication, claims 1 to 9 were pending. Claim 3 has now been amended and claim 9 has been cancelled. Claims 1 to 8, as they stand upon entry of the amendments, are presented in Exhibit A.

Claim Rejections Under 35 U.S.C. § 112

The rejection of claims 3 to 7 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite is respectfully traversed.

Claim 3 and claims dependent therefrom are allegedly indefinite in the recitation of "nuclear export protein" because it is not clear if the phrase means a sequence (or polypeptide) that directs the polypeptide to a region of a cell other than the nucleus or a sequence (or polypeptide) that directs the polypeptide from a region inside the nucleus to a region outside of the nucleus. Applicants respectfully submit that the meaning of the phrase is clear from the specification. The specification provides that, "[a] 'nuclear export sequence' is a polypeptide sequence that directs the polypeptide to a region of the cell outside of the nucleus" (Specification, page 14, lines 2 to 3).

Applicants point out that under the patent laws, Applicants may be their own lexicographer. As the U.S. Court of Appeals for the Federal Circuit noted,